

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 33 State Lands

SPONSOR(S): Smith

TIED BILLS: None **IDEN./SIM. BILLS:** SB 466

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Kaiser	Blalock
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Constitution, provides that the fee interest in real property held by an entity of the state and designated for natural resources conservation purposes must be managed for the benefit of the citizens of this state and may be disposed of only if the members of the governing board of the entity holding title determine the property is no longer needed for conservation purposes and only upon a vote of two-thirds of the governing board.

In addition, current law provides that all lands held in the name of the Board of Trustees of the Internal Improvement Trust Fund (board) are held in trust for the use and benefit of the people of the state. The board is comprised of the Governor and Cabinet and is responsible for the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by the state.

Current law also grants the board with the power to exchange lands vested or titled in the name of the board for other lands in the state owned by local governments, individuals, or private or public corporations. When exchanging conservation lands that were not acquired through gift or donation, the board must request an exchange of equal value, which means the conservation benefit of the lands being offered for exchange is equal to or greater than the conservation benefit of the state-owned lands. The Acquisition and Restoration Council (ARC) is required by law to make the determination of a net-positive conservation benefit, regardless of appraised value. The Division of State Lands (division) within the Department of Environmental Protection (DEP) performs the staff duties related to the board's authority over state lands. Requests for exchanges are handled by the division.

The bill provides that individuals or public or private corporations who own land contiguous to state-owned land can submit a request directly to the board to exchange state-owned land for conservation easements over the privately held land. The bill requires the board to consider the request for exchange within 60 days of receiving it if the privately held land is surrounded by state-owned land on at least 30 percent of its perimeter. The exchange cannot create an inholding. The bill also requires that special consideration be given to requests for exchanges that allow the state to retain a conservation easement in perpetuity.

Lastly, the bill encourages low-impact agricultural operations such as grazing, forest management, prescribed burning, and wildlife management practices on the state-owned lands acquired through the exchange.

The bill appears to have a negative fiscal impact on state and local governments (See Fiscal Comments).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 253.001, F.S., provides that all lands held in the name of the Board of Trustees of the Internal Improvement Trust Fund (board) are held in trust for the use and benefit of the people of the state pursuant to Art. 11, s. 7 and Art. X, s. 11, of the Florida Constitution. The board is comprised of the Governor and Cabinet and is responsible for the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by the state. The Division of State Lands (division) within the Department of Environmental Protection (DEP) performs the staff duties related to the board's authority over state lands. Requests for exchanges are handled by the division in accordance with Rule 18-2, Florida Administrative Code (F.A.C.).

Article X, section 18 of the Florida Constitution, provides that the fee interest in real property held by an entity of the state and designated for natural resources conservation purposes must be managed for the benefit of the citizens of this state and may be disposed of only if the members of the governing board of the entity holding title determine the property is no longer needed for conservation purposes and only upon a two-thirds vote of the governing board.

Section 253.42, F.S., grants the board with the power to exchange lands vested or titled in the name of the board for other lands in the state owned by local governments, individuals, or private or public corporations. Any nonconservation lands that were acquired by the state through gift, donation, or any other conveyance for which no consideration was paid must first be offered at no cost to a county or local government, unless otherwise provided in a deed restriction of record or other legal impediment, and so long as the use proposed by the county or local government is for a public purpose. For conservation lands acquired by the state through gift, donation, or any other conveyance for which no consideration was paid, the state may request land of equal conservation value from the county or local government but no other consideration.

When exchanging conservation lands that were not acquired through gift or donation, the board must request an exchange of equal value, which means the conservation benefit of the lands being offered for exchange is equal to or greater than the conservation benefit of the state-owned lands.¹ In exchanges of this type, the Acquisition and Restoration Council (ARC)² must make a determination of a net-positive conservation benefit, regardless of appraised value.

Effect of Proposed Changes

The bill amends s. 253.42, F.S., to provide that individuals or public or private corporations who own privately held land contiguous to state-owned land may submit a request directly to the board to exchange state-owned land for conservation easements over the privately held land.

The bill also provides that if the privately held land is surrounded by state-owned land on at least 30 percent of its perimeter, and the exchange does not create an inholding³, then the board must consider the request within 60 days after receiving it.

¹ Section 253.42(2), F.S.

² The Acquisition and Restoration Council (ARC) is a 10-member group with representatives from various agencies as well as appointees by the governor, the Florida Fish and Wildlife Conservation Commission, and the Commissioner of Agriculture. The ARC is responsible for the evaluation, selection and ranking of state land acquisition and capital improvement projects for the Florida Forever priority list, as well as the review of management plans and land use plans for all state-owned conservation lands.

³ An inholding denotes privately-owned land inside the boundary of a publicly-owned, protected area, such as a national/state park or national/state forest.

In addition, the bill provides that special consideration must be given to a request that allows the state to retain a conservation easement in perpetuity.

Lastly, the bill provides that low-impact operations such as grazing, forest management, prescribed burning, and wildlife management practices on the state-owned lands are strongly encouraged.

B. SECTION DIRECTORY:

Section 1: Amends s. 253.42, F.S., authorizing individuals to submit requests to the Board of Trustees of the Internal Improvement Trust Fund to exchange state-owned land for conservation easements; providing criteria for such requests; and, encouraging certain operations on such lands.

Section 2: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments section below.

2. Expenditures:

See Fiscal Comments section below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have a negative fiscal impact on local governments if the conservation easement resulting from the exchange reduces ad valorem property taxes. This may result in a loss of revenues from property taxes and fees generated from state-owned lands exchanged for conservation easements.

2. Expenditures:

See Fiscal Comments section below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill allows private land owners to receive title to state-owned lands that may not be available for exchange under current law. Also, by obtaining conservation easements on their property, private landowners could potentially reduce the amount of property tax owed.

Public access would be hindered to the extent that state-owned land that becomes the property of a private landowner would no longer be available for public uses, such as hunting, fishing, camping, hiking, etc. Additionally, conservation easements acquired by the state in exchange for state-owned land do not inherently contain a public right of access.

The silvicultural industry may be affected if acreage is taken out of production.

D. FISCAL COMMENTS:

The Department of Environmental Protection states that the bill could result in a negative fiscal impact, but the exact amount is indeterminate.

The Department of Agriculture and Consumer Services estimates that the bill could result in an annual net loss of approximately \$1.1 million: \$800,000 from timber sales and other forest products and \$300,000 from uses such as oil, gas, and mineral exploration, as well as seismic testing. Additionally,

the state could incur annual expenditures of approximately \$250,000 associated with additional staff to process land negotiations as well as the costs associated with surveying, maps, brochures, and reestablishing fire breaks, roads, and fencing.

The Florida Fish and Wildlife Commission stated that the legislation could result in a reduction of revenues generated on state-owned lands from public use fees, timber harvests, grazing, and other allowable uses of state-owned lands that currently generate revenue for the state. However, the board would have the discretion as to whether to approve the exchange of any land that could result in a loss of revenue to a specific governmental entity. The bill could also potentially reduce the state's land management costs, since the cost to the state of compliance monitoring for conservation easements is less than the costs for management of full-fee state-owned lands.

Proponents of the bill state this legislation will alleviate land management costs for the state by transferring the land to private ownership. Additionally, the privately-held land will be returned to the tax rolls, thus providing revenue for local governments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

Pursuant to Article X Section 18 of the Florida Constitution, "real property held by the state and designated for natural resources conservation purposes may be disposed of only if the members of the governing board of the entity holding title determine the property is no longer needed for conservation purposes and only upon a vote of two-thirds of the governing board."

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The first line of the title of the bill contains the words "relating to" twice. This should be corrected through the amendatory process.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None